

Air Program Fact Sheet

Exemptions from Construction Permits Based on Actual Emissions

Under s. NR 406.04(1q), Wis. Adm. Code

January 2011

What is the new Air Construction Permit Exemption all about?

In June 2007, the Department of Natural Resources (DNR) created a new type of exemption from air pollution control construction permit requirements for projects that meet certain emissions limits. This exemption is now available for facilities planning to construct or modify equipment that emits air pollution.

This exemption is available to all facilities, large and small, that have **already been issued a facility-wide operation permit** or have **submitted a timely and complete application for a facility-wide operation permit**. Please note that facilities with a Registration Permit or General Operation Permit do **not** need to apply for this exemption.

Who qualifies for this Actual Emissions Construction Permit Exemption?

Your facility may qualify for the exemption if the actual emissions from all the equipment (also known as emissions units) constructed, modified, replaced, relocated and/or reconstructed as part of a project do not exceed the following levels:

Pollutant	Eligibility Threshold
Particulate matter (PM)	1,666 pounds per month*
Sulfur dioxide (SO ₂)	1,666 pounds per month*
Carbon monoxide (CO)	1,666 pounds per month*
Nitrogen oxides (NO _x)	1,666 pounds per month*
Volatile organic compounds (VOCs)	1,666 pounds per month*
Lead	10 pounds per month*

*Averaged over any 12-consecutive-month period

In addition to emitting at or below these thresholds, the project, which consists of all constructed, modified, replaced, relocated or reconstructed emissions units, must also meet the following requirements:

- None of the emissions units in the project can trigger a new Best Available Control Technology (BACT) or Lowest Achievable Emission Rate (LAER) determination under the state toxics rule in ch. NR 445, Wis. Adm. Code. BACT or LAER may be triggered if the emissions of a hazardous air contaminant are over the applicable thresholds in Table A, B, or C of ch. NR 445, available at <http://www.legis.state.wi.us/rsb/code/nr/nr445.pdf>, and column (i) in the tables says BACT or LAER is required. More information and assistance on the state toxics rule can be found at <http://dnr.wi.gov/topic/AirQuality/Toxics.html>.
- The project does not trigger New Source Review requirements under chs. NR 405 or NR 408, Wis. Adm. Code.
- Emissions units (or processes) newly constructed as part of the project cannot be subject to an *emissions limitation* under section 111 (New Source Performance Standards, or NSPS) or 112 (Maximum Achievable Control Technology, or MACT) excluding 112(d)(5) of the federal Clean

Air Act. In addition, units that are modified, reconstructed, replaced or relocated as part of the project cannot trigger any new requirements under section 111 or 112 of the Clean Air Act due to the project. A list of the NSPS can be found at <http://dnr.wi.gov/topic/AirPermits/documents/NSPSlist.pdf>. Information on MACT standards can be found at <http://www.epa.gov/ttn/atw/mactfnlalph.html>.

How do I get an exemption from construction permit requirements under s. NR 406.04(1q)?

Before starting on any projects, you must take the following steps:

- Use the optional form available at <http://dnr.wi.gov/topic/AirPermits/documents/PermitExemptionoptionalform.pdf> or a written letter to notify the DNR of your claim of exemption from construction permitting. You *must* submit a written claim of exemption to the department.
- In addition, you must include a complete application for a revision to your facility-wide operation permit or, if the DNR has not yet acted upon your application for an operation permit, you must submit an amendment to your application. Permit revision forms are available online at <http://dnr.wi.gov/topic/AirPermits/Forms.html>.
- If control equipment is used to limit actual emissions from any unit in the project, the operation permit revision application or amendment must propose methods that will be used to monitor operation of the control equipment.

Mail your claim of exemption and complete operation permit revision application or amendment to: Wisconsin Department of Natural Resources, Bureau of Air Management, AM/7 – Exemptions, PO Box 7921, Madison, WI 53707-7921.

What happens after the DNR gets my claim of exemption?

Review: The DNR is required to respond to any claim of exemption made under s. 406.04(1q) within 20 business days of receipt. If you have not submitted a complete application for operation permit revision, or if not enough information is submitted to make an exemption determination, you will be asked to submit additional information. The DNR will have 20 business days from the date the additional information is received to make a decision. The DNR will send you a written response during that time.

If we determine that your project is exempt, you may begin construction immediately. If we find the project is not exempt, you will be instructed on how to apply for a traditional construction permit.

Fees: There is a one-time fee of \$,1250 for the review of an exemption under s. NR 406.04(1q). You must include a check for this fee with your claim of exemption. A claim is not considered complete unless this fee is included.

Revision: After determining that your facility is exempt, the application for operation permit revision will be changed using the appropriate procedures. Usually this will include preparation of a draft permit, publication of a public notice and a 30-day public comment period. Permits for facilities that are federal Part 70 sources will undergo an additional 45-day U.S. Environmental Protection Agency review. The DNR is generally able to make a final decision on permit revisions within 180 days of receiving a complete application.

What do I need to do after my exemption is approved?

Once any new or modified, emissions unit starts operating, you must begin monitoring any pollution control equipment as proposed in your operation permit revision application. You must also begin to maintain records adequate to demonstrate compliance with the applicable emissions limitations.

Whom should I contact if I need more help?

- Steve Dunn, Air Permit Engineer, (608)267-0566 or Steven.Dunn@wisconsin.gov
- Contact the DNR Service Center nearest you and ask for your air compliance inspector. Service Center contact information is available at: <http://dnr.wi.gov/contact/ssbycity.html>.
- For updates, visit the DNR Permit Options Web page at <http://dnr.wi.gov/topic/AirPermits/Options.html>

The Wisconsin Department of Natural Resources provides equal opportunity in employment, programs, services and functions under an Affirmative Action Plan. If you have any questions, please write to Equal Opportunity Office, Department of Interior, Washington, DC 20240. This publication is available in alternative format (large print, Braille, audio tape, etc.) upon request. Please contact the Bureau of Air Management, phone 608-266-7718, for more information.



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PUB-AM-387 2008